



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্ব দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 651 দিশপুৰ, বৃহস্পতিবাৰ, 9 নৱেম্বৰ, 2017, 18 কাতি, 1939 (শক)

No. 651 Dispur, Thursday, 9th November, 2017, 18th Kartika, 1939 (S.E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

THE NORTH CACHAR HILLS AUTONOMOUS COUNCIL :: HAFLONG

LEGISLATIVE DEPARTMENT

NOTIFICATION

The 9th November, 2017

No. L-REG/1/2012-17/146.— In pursuance to Sub-Rule (2) of Rule 73 of the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951 (as amended) and as applicable to North Cachar Hills Autonomous Council, the following Bill called 'The Constitution of North Cachar Hills Autonomous Council (Forty Second Amended) Bill, 2017 which after receiving the approval of the Governor of Assam for introduction under Sub-Rule (3) of the said Rules, is intended to be introduced in the session of North Cachar Hills Autonomous Council is hereby published together with the statement of objects and reasons.

BILL NO. 2 OF 2017

**THE CONSTITUTION OF NORTH CACHAR HILLS AUTONOMOUS COUNCIL
(FORTY-SECOND AMENDMENT) BILL, 2017**

A
BILL
FURTHER TO AMEND
THE ASSAM AUTONOMOUS DISTRICTS
(CONSTITUTION OF DISTRICT COUNCILS) RULES, 1951

Preamble

Whereas it is expedient further to amend The Assam Autonomous Districts (Constitution Of District Councils) Rules, 1951, hereinafter referred to as the Principal Rules, so far they relate to the constitution of the North Cachar Hills Autonomous Council, to provide for party system in constituting the Executive Committee to ensure a strong and stable Executive Committee in the North Cachar Hills Autonomous Council so that the executive authority can be exercised by a political party enjoying a simple majority in the Council Elections and to provide for and prescribe for disqualification on the ground of defection so as to adopt some of the relevant provisions of Tenth Schedule to the Constitution of India with suitable modifications.

It is hereby enacted in the Sixty-eighth Year of the Republic of India as follows :-

Short title, commencement and application.

1. (1) This Act may be called the Constitution of North Cachar Hills Autonomous Council (Forty-second Amendment) Act, 2017.
- (2) They shall come into force on and from the date of its adoption by the North Cachar Hills Autonomous Council.
- (3) They shall apply so far they relate to the constitution of the North Cachar Hills Autonomous Council.

Insertion of new rule 18A.

2. in the principal Rules, after the existing rule 18, the following new rule 18A shall be inserted, namely :-

“18A. Provision as to disqualification on ground of defection.-

- (1) Interpretation.-

In this rule, unless the context otherwise requires,-

- (a) “Council” means the North Cachar Hills Autonomous Council as specified under paragraph 20 of the Sixth Schedule to the Constitution;

- (b) “Party”, in relation to a member of the Council belonging to any political party in accordance with the provisions of sub-rule (2) and sub-rule (4) of this rule, means the group consisting of all the members of the Council for the time being belonging to that political party in accordance with the said provision;
 - (c) “Original political party”, in relation to a member of the Council means the political party to which he belongs for the purposes of clause (a) of sub-rule (2) of this rule.
- (2) Disqualification on ground of defection.-
- (a) Subject to the provisions of this sub-rule and sub-rule (3) and (4) of this rule, a member of the Council belonging to any political party shall be disqualified for being a member of the Council,-
 - (i) if he has voluntarily given up his membership of such political party; or
 - (ii) if he votes or abstains from voting in the Council contrary to any direction or whip issued by the political party to which he belongs or by any person or authority authorized by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation :- For the purposes of this sub-rule, a nominated member of the Council shall,-

- (i) where he is a member of any political party on the date of his nomination as such member, be deemed to belong to such political party ;
- (ii) in any other case, be deemed to belong to the

political party of which he becomes, or, as the case may be, first becomes, a member before the expiry of six months from the date on which he takes his seat after taking oath under rule 24 of these rules.

- (b) An elected member of the Council shall,-
 - (i) be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;
 - (ii) be disqualified for being a member of the Council if he joins any other political party after such election.
- (c) An elected member of the Council, who has been elected as an independent candidate or other than a candidate set up by a political party, may opt to become a member of any political party. However, such member shall be disqualified for being a member of the Council if after becoming a member of any political party, he joins in any other political party.
- (d) A nominated member of the Council shall be disqualified for being a member of the Council if he joins any political party after the expiry of six months from the date on which he takes his seat after taking oath under rule 24 of these rules.
- (e) Notwithstanding anything contained in the foregoing provisions of this sub-rule, a person who, on the date of commencement of the Constitution of North Cachar Hills Autonomous Council (Forty-second Amendment) Act, 2017, is a member of the Council (whether elected or nominated as such) shall,-
 - (i) where he was a member of a political party immediately before such commencement, be deemed, for the purposes of clause (a) of this

sub-rule, to have been elected as a member of the Council as a candidate set up by such political party;

- (ii) in any other case, be deemed to be an elected member of the Council who has been elected as such otherwise than as a candidate set up by any political party for the purposes of clause (c) of this sub-rule or, as the case may be, be deemed to be a nominated member of the Council for the purposes of clause (d) of this sub-rule.

(3) Disqualification on ground of defection not to apply in case of merger.-

- (a) A member of the Council shall not be disqualified under clause (a) of sub-rule (2) of this rule where his original political party merges with another political party and he claims that he/she and any other members of his original political party,-

- (i) have become members of such other political party or, as the case may be, of a new political party formed by such merger ; or
- (ii) have not accepted the merger and opted to function as a separate group, and from the time of such merger, such other political party or new political party or group, as the case may be, shall be deemed to be the political party to which he belongs for the purposes of clause (a) of sub-rule (2) and to be his original political party for the purposes of this sub-rule.

- (b) For the purposes of clause (a) of this sub-rule, the merger of the original political party of a member of the Council shall

be deemed to have taken place if, and only if not less than two-thirds of the members of the party concerned in the Council have agreed to such merger.

(4) Exemption.-

Notwithstanding anything contained in this rule, a person who has been elected to the office of the Chairman or the Deputy Chairman of the Council, shall not be disqualified under this rule.-

- (a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of a another political party; or
- (b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election rejoins such political party after he ceases to hold such office.

(5) Decision on questions as to disqualification on ground of defection.-

If any question arises as to whether a member of the Council has become subject to disqualification under this rule, the question shall be referred for the decision of the Chairman of the Council and his decision shall be final :

Provided that where the question which has arisen is as to whether the Chairman or the Deputy Chairman has become subject to such disqualification, the question shall be referred for the decision of such member of the Council as the Council may elect in this behalf and his decision shall be final :

Provided further that an appeal by any member shall lie against such decision of the Chairman and an appeal by the Chairman against the decision of such member elected for the purpose, as the case may be, before the Governor and his decision (disclosing reasons and grounds thereof) shall be final.

(6) Bar of jurisdiction of courts.-

Notwithstanding anything in these rules, no court shall have any jurisdiction in respect of any matter connected with the disqualification of a member of the Council under this rule.

(7) Rules.-

(a) Subject to the provisions of clause (b) of this sub-rule, the Chairman of the Council may make rules for giving effect to the provisions of this rule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for,-

- (i) the maintenance of registers or other records as to the political parties, if any, to which different members of the Council belong;
- (ii) the report which the leader of a party in relation to a member of the Council shall furnish with regard to any condonation of the nature referred to in sub-clause (ii) of clause (a) of sub-rule (2) in respect of such member, the time within which and the authority to whom such report shall be furnished;
- (iii) the report which a political party shall furnish with regard to admission to such political party of any members of the Council and the officer of the Council to whom such reports shall be furnished; and
- (iv) the procedure for deciding any question referred to in sub-rule (5) of rule 18A and sub-rule (3) of rule 107 including the procedure for any inquiry which may be made for the purpose of deciding such question.

(b) The rules made by the Chairman of the Council under clause

(a) of this sub-rule shall be laid as soon as may be after they are made before the Council for a total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the Council and where they are so approved, they shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall be of no effect.

(c) The Chairman of the Council may, without prejudice to any other power which he may have under these rules direct that any wilful contravention by any person of the rules made under this sub-rule may be dealt with in accordance with the rule framed by him under clauses (a) and (b) of this sub-rule.”

**Substitution
of rule 20.**

3. In the principal Rules, for the existing rule 20, the following shall be substituted, namely :-

“20. The leader of the majority party shall be invited by the Governor to be appointed as the Chief Executive Member. The other Member(s) of the Executive Committee shall be appointed by the Governor on the advice of the Chief Executive Member from amongst the Members of the Autonomous Council:

Provided that in the event no political party enjoys a simple majority in the Council, in such case, the leader who claims to have support of majority of Members of the Autonomous Council may lay his claim before the Governor, who may invite such Member who in his opinion enjoys the support of majority of the Members of the Autonomous Council to be appointed as the Chief Executive Member of the Council :

Provided further that the Chairman and the Deputy Chairman of the Autonomous Council shall not be eligible to hold office either as Chief Executive Member or as a Member of the Executive Committee of the Autonomous Council.”

Amendment of rule 21.

4. In the principal rules, in rule 21, after sub-rule (2), the following new sub-rule (3) shall be inserted, namely :-
- “(3) A Member of the Executive Committee shall be removed by the Governor on the advice of the Chief Executive Member.”

Amendment of rule 107.

5. In the principal Rules, in rule 107, after sub-rule (2), the following new sub-rule (3), shall be inserted, namely :-
- “(3) Any resolution to remove a Member from office after disqualification under rule 18A under Chapter-III on ground of defection may be moved without prior notice but with leave of the Chairman as provided for in sub-rule (2) of rule 46 and such resolution shall be read by the Chairman or any person presiding at the request of any Member moving the resolution and the said resolution shall be disposed of in accordance with the procedure adopted by the Chairman under clause (a) of sub-rule (7) of rule 18A, and till such Rules and adopted, in accordance with the procedure laid down in the foregoing rules of this chapter.”

Amendment of rule 176.

6. In the principal Rules, for the existing rule 176, the following shall be substituted, namely :-
- “176. The maximum limit of election expenses (including the personal expenditure of a candidate) which may be incurred by a candidate for election in a constituency of Council shall be such as may be determined by notification by the State Election Commission, Assam, from time to time.”

STATEMENT OF REASONS AND OBJECT

It has been observed that there has been persistent instability in the functioning of the Council due to absence of a party system and anti-defection law, which is being followed at the State and National level. This has affected the overall development and good governance in the North Cachar Hills Autonomous Council area. With a view to remedy the same, it is sought to bring in certain amendments in the existing Rules to provide for party system and for application of anti-defection law in the functioning of the District Council, being expedient in the public interest.

Hence, the Bill.

DEBOLAL GORLOSA,
Chief Executive Member,
North Cachar Hills Autonomous Council,
Haflong.